

Adams, Hope

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Sent: Friday, July 30, 2021 10:49 AM
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Cc: PSC_Contact; Besley, Sharon
Subject: RE: Hearing Exhibit ? -- Judicial Notice? (Cross Examination Exhibit No. 1 Bowman) -- DN 2020-263-E
Attachments: Cherokee Cross- Bowman-001 - Cherokee-Duke Set 2 No. 1_LEO.pdf

Parties:

Attached is a copy of the Cross Examination Exhibit regarding the Witness on the stand.

Jo Anne

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**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2020-263-E

In the Matter of:

Cherokee County Cogeneration Partners, LLC)	DUKE ENERGY CAROLINAS,
)	LLC'S AND DUKE ENERGY
Complainant,)	PROGRESS, LLC'S RESPONSE TO
)	CHEROKEE COUNTY
v.)	COGENERATION PARTNERS,
)	LLC'S SECOND
Duke Energy Progress, LLC and)	INTERROGATORIES AND
Duke Energy Carolinas, LLC,)	REQUESTS FOR PRODUCTION
)	
Respondents.)	

Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP," together with DEC, the "Companies"), by and through counsel, pursuant to Rules 103-833(B), 103-833(C) and 103-835 of the Rules of Practice and Procedure of the South Carolina Public Service Commission and the South Carolina Rules of Civil Procedure, hereby respond to Complainant, Cherokee County Cogeneration Partners, LLC's ("Cherokee") Second Interrogatories and Requests for Production as follows:

RESPONSES TO SECOND INTERROGATORIES

1. Do DEP and/or DEC contend that a utility has the right to unilaterally revoke or nullify a QF's LEO?

RESPONSE: The Companies object to the request on the grounds that it is vague, ambiguous, calls for a legal conclusion and seeks to impose duties or obligations upon the Companies beyond those imposed by the Rules of the Commission and the South Carolina Rules of Procedure. Subject to and notwithstanding the foregoing objection, the Companies do not

contend that a utility has the right to unilaterally revoke or nullify a QF's LEO. A legally enforceable obligation or LEO can be contractual (in the form of a power purchase agreement or PPA) or non-contractual. See Order No. 2019-881(A) at p. 140; FERC Order No. 872, 172 FERC ¶ 61,041 at n. 92 (2020). The Commission ultimately determines whether a non-contractual LEO has been established based on the QF's conduct and the utility's conduct. See Kendal Bowman Direct Testimony, at 19-21 and Glen Snider Direct Testimony, at 8-10.